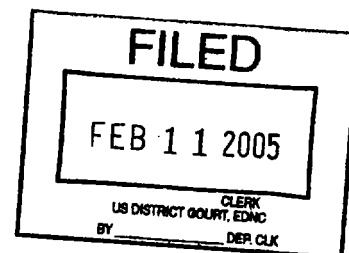


**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
NO. 5:05-CV-48 FL (1)**



RICHARD P. NORDAN, as Ancillary)
Administrator for the separate Estates of)
STEPHEN S. HELVENSTON, MIKE R.)
TEAGUE, JERKO GERALD ZOVKO and)
WESLEY J.K. BATALONA,)

Plaintiffs,)

v.)

BLACKWATER SECURITY)
CONSULTING, LLC, a Delaware Limited)
Liability Company; BLACKWATER)
LODGE AND TRAINING CENTER, INC.,)
a Delaware Corporation, JUSTIN L.)
MCQUOWN, an individual; and THOMAS)
POWELL, an individual,)

Defendants.)

PLAINTIFF'S MOTION FOR REMAND

COMES NOW Plaintiff in the above-entitled action, pursuant to 28 U.S.C. § 1447(c), and hereby moves the Court for an Order remanding the above-entitled action back to the North Carolina Superior Court, Wake County. This Motion for Remand is based upon the following grounds:

1. The Plaintiff's Complaint does not allege any claims which "arise under" the Constitution, laws or treaties of the United States;
2. The Defendants' anticipated defenses, even if based upon a federal statute or federal preemption, do not provide a basis for removal jurisdiction;

3. Neither the Defense Base Act, nor the Longshore and Harbor Workers' Compensation Act, completely preempt any and all state law claims, for the purpose of removal jurisdiction;

4. This U.S. District Court lacks subject matter jurisdiction over the instant action; and

5. The Plaintiff is entitled to recovery of attorneys fees in connection with the Defendants' improper removal of this state court action to federal court, pursuant to 28 U.S.C. § 1447(c).

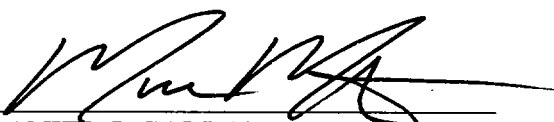
In support of this Motion for Remand, the Plaintiff concurrently submits herewith the Plaintiff's Memorandum of Law in Support of Motion for Remand.

WHEREFORE, Plaintiff, by his undersigned attorneys, move this Court for an Order remanding the instant action back to the North Carolina Superior Court, Wake County, and an award of attorneys fees in the amount of \$12,123, in connection with the Defendants' improper removal.

This 10th day of February 2005.

CALLAHAN & BLAINE, APLC

By:



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BATALONA

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CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the foregoing **Plaintiff's Motion for Remand** in the above-entitled action on all of parties to this cause by depositing a copy, postage prepaid, in the United States Mail, addressed as follows:

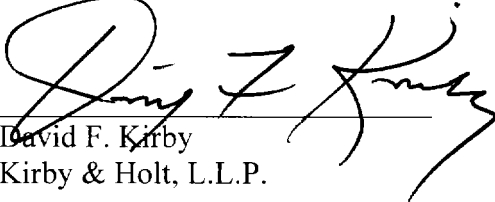
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This is 11th day of February, 2005.



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